

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

LUIS MUNIZ, JR.,	§	
	§	
Petitioner,	§	
	§	
vs.	§	C.A. NO. C-07-76
	§	
NATHANIEL QUARTERMAN,	§	
Director, Texas Department	§	
of Criminal Justice,	§	
Correctional Institutions	§	
Division,	§	
	§	
Defendant.	§	

ORDER ADOPTING MEMORANDUM & RECOMMENDATIONS

On this day came on to be considered "Respondent's Motion to Alter or Amend the Judgment" (D.E. 14) in the above-styled action, requesting that this Court reconsider its previous order declining to adopt the Magistrate's Memorandum & Recommendation on the issue of timeliness (D.E. 13). In its previous Order, this Court stated that Petitioner's claims could not be dismissed based on untimeliness because Petitioner was entitled to application of the "mailbox rule" in determining when his state habeas petition was filed and thus tolled the federal statute of limitations. As the Respondent correctly notes, however, although the mailbox rule applies in the federal system and in many states, it does *not* apply to the question of when a state habeas petition is filed in Texas. Causey v. Cain, 450 F.3d 601, 604 (5th Cir. 2006) (although the rule applies in Louisiana, "[t]his Court has refused to extend the prison mailbox rule to Texas state habeas filings"); see also

Coleman v. Johnson, 184 F.3d 398, 401 (5th Cir. 1999). Accordingly, Respondent's "Motion to Alter or Amend the Judgment" (D.E. 14) is GRANTED and it is hereby ORDERED that this Court's "Order Adopting in Part Memorandum and Recommendation" (D.E. 13) is VACATED and this Order is substituted in its place.

Having reviewed the findings of fact and conclusions of law in the Memorandum & Recommendation, as well as the pleadings on file and Petitioner's objections, and having made a *de novo* disposition of those portions of the Magistrate Judge's recommended disposition to which objections were raised, see Koetting v. Thompson, 995 F.2d 37 (5th Cir. 1993); 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b), the Court hereby adopts as its own the findings and conclusions of the Magistrate Judge. Accordingly, it is hereby ORDERED that Respondent's Motion for Summary Judgment (D.E. 8) is GRANTED, and Petitioner's Petition for Habeas Corpus (D.E. 1) is DISMISSED WITH PREJUDICE. Petitioner is DENIED a certificate of appealability.

The clerk shall enter this order and provide a copy to all parties.

SIGNED this the 10th day of July, 2007.

A handwritten signature in black ink, reading "Janis Graham Jack", is written over a horizontal line.

Janis Graham Jack
United States District Judge